

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the sixth s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 84 months (seven years). The previous assessment 1000633-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1972
<b>Ombudsman ID</b>	1000633-O1
<b>Date of department's report</b>	18 September 2017
<b>Total days in detention</b>	2,550 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility C.

### Recent visa applications/case progression

24 April 2017	The Administrative Appeals Tribunal dismissed Mr X's application seeking reinstatement of his application for merits review of the Department of Home Affairs' (the department) decision to refuse his Temporary Protection visa application.
29 April 2017	The department requested a travel document from the authorities of Country A on behalf of Mr X.
5 July 2017	The authorities of Country A notified the department that Mr X is not a citizen of Country A.
18 September 2017	<p>The department advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway.</p> <p>The department further advised that Mr X's case was being considered against the guidelines for possible referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.</p>

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to attend group counselling and health promotion sessions. Upon psychiatric review in May 2017 a psychiatrist noted that Mr X's mental health had deteriorated over the last two years while remaining in detention, and that he experienced symptoms of poor sleep, nightmares, hopelessness, depression, anxiety and chronic stress. The psychiatrist recommended that Mr X be placed in the community due to his mental health concerns and that he continue to be placed in a single room while he remains in a detention facility. IHMS further advised that Mr X attended physiotherapy for the management of knee and back pain.

### **Ombudsman assessment/recommendation**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for more than seven years. He has no matters before the department, the courts or tribunals and is on a removal pathway.

The Ombudsman notes that on 5 July 2017 the authorities of Country A notified the department that Mr X is not a citizen of Country A and as a result Mr X's removal is likely to be protracted.

The Ombudsman's previous assessment recommended that Mr X be considered for alternative placement arrangements, unless the department was confident that removal to Country A would take place in the near future.

On 13 September 2017 the Minister advised that Mr X was being assessed against the s 195A guidelines for a possible referral for a bridging visa, had been found not to meet the guidelines for consideration of a community placement, and remains on a removal pathway.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. IHMS advised that a psychiatrist recommended that Mr X be placed in the community following deterioration in his mental health while he has remained in an immigration detention facility.

In light of the significant length of time Mr X has remained in detention, the absence of any recent behavioural or security concerns and the risk of further deterioration of his mental health, the Ombudsman recommends that Mr X be considered under s 195A for the grant of a bridging visa while his removal from Australia is processed.